

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

MICHAEL OGHIGIAN,

**Plaintiff,**

V.

DEUTSCHE BANK NATIONAL TRUST  
COMPANY; et al.,

### Defendants.

2:11-cv-0742-LDG-CWH

## ORDER

By order entered January 9, 2013, the court directed plaintiff to file a report on the status of the case, and warned that failure to do so will invite dismissal of the action (#17). Plaintiff has failed to timely file the status report.

Since dismissal for lack of prosecution or failure to comply with the order of the court is a harsh penalty that should only be imposed in extreme circumstance, the Ninth Circuit has enumerated five factors to be considered by the district court when considering such dismissal: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions.” Allen v. Bayer Corp. 460 F.3d 1217, 1226 (9th Cir. 2006) (citing Malone v. U.S. Postal Serv., 833 F.2d 128, 130 (9th Cir. 1987)). “These factors are ‘not a series of conditions precedent before the judge can do anything,’ ”

1 but a ‘way for a district judge to think about what to do.’” Allen, 460 F.3d at 1226 (citing Valley  
2 Eng’rs Inc., v. Elec. Eng’g Co., 158 F.3d 1051, 1057 (9th Cir. 1998)).

3 In considering these factors, the court finds that a final admonishment to plaintiff is in  
4 order before the court acts on plaintiff’s failure to comply with the court’s orders. The interests of  
5 expediting the litigation and the court’s management of its docket demands that the plaintiff file a  
6 report on the status of the case, including any efforts between the parties to conduct discovery, or  
7 actions anticipated by plaintiff from the court, to advance this litigation. Failure to file the report  
8 will result in dismissal of the action and be considered by the court as a consent by plaintiff to  
9 such. Accordingly,

10 THE COURT HEREBY ORDERS that plaintiff shall have fifteen (15) days from the date  
11 of the entry of this order in which to file the above-described status report.

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13 DATED this 14 day of February, 2013.  
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Lloyd D. George  
United States District Judge